

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GERARDO HERNANDEZ,

Plaintiff,

v.

KN PETROLEUM, LLC, et al.,

Defendants.

Case No. [4:24-cv-03653-KAW](#)

**ORDER REGARDING DEFENSE
COUNSEL'S IMPROPER EX PARTE
COMMUNICATIONS**

On December 9, 2024, Plaintiff filed a motion for sanctions. (Dkt. No. 24.) Defendants did not timely oppose the motion, so, on January 6, 2025, the Court issued an order to show cause to Defendants why the motion should not be granted as unopposed and ordered Defendants to file a response to the order to show cause and an opposition or statement of non-opposition by January 13, 2025. (Dkt. No. 27.)

On January 13, 2025, instead of formally requesting an extension of the deadline to respond to the order to show cause and file the opposition, defense counsel Gregory J. Antone emailed the Court seeking an extension of time, which included arguments pertaining to the merits of this case. Mr. Antone was advised by court staff that requests for relief could not be obtained via email and that he needed to file a request on the docket. Mr. Antone did not file a formal request for relief, and, on January 16, 2025, the Court issued a second order to show cause and ordered Defendants to respond by January 24, 2025. (Dkt. No. 28.)

On January 24, 2025, Defendants filed a single document responding to the orders to show cause and opposing the pending motion for sanctions. (Defs.' Opp'n, Dkt. No. 29.) On February 13, 2025, the Court set a hearing on the order to show cause for March 6, 2025, and continued the hearing on the motion for sanctions for the same date, and ordered that Defendants' client


representatives personally appear. (Dkt. No. 33.) Mr. Antone was also ordered to serve a copy of that order and a copy of “Defendants’ Opposition to Plaintiff’s Motion for Sanctions” (Dkt. No. 29) on his clients. (Dkt. No. 33 at 2.)

Despite ordering the appearance of counsel and his clients, nobody appeared at the March 6, 2025 hearings on the motion for sanctions and the order to show cause. The motion for sanctions was granted against Defendants KN Petroleum LLC and KN Stations LLC, jointly and severally, in the amount of \$9,453.50, and Mr. Antone was referred for disciplinary proceedings before the Northern District’s Standing Committee on Professional Conduct. (Dkt. No. 35 at 7-8.) Given the nonappearance of his clients at the hearing, Mr. Antone was again ordered to serve those prior documents, and a copy of the order imposing sanctions on his clients. *Id.* at 8. Mr. Antone was ordered to file a certificate of service by March 13, 2025. *Id.* To date, no certificate of service has been filed.

On March 14, 2025, Mr. Antone left a voicemail for the Court explaining his absence at the March 6, 2025 hearing despite multiple admonitions regarding the impropriety of doing so. Citing new health issues as reason for his absence, he appears to have either requested that the Court hold off on issuing an order on the motion for sanctions or he made an oral request for reconsideration of the March 6, 2025 order imposing sanctions.¹ Either request for relief constitutes a wholly improper *ex parte* communication, and will not be considered. Mr. Antone is advised to immediately cease these improper *ex parte* communications, whether by phone, email or otherwise. The failure to abide by this directive may result in the imposition of sanctions *sua sponte* on Mr. Antone, personally.

IT IS SO ORDERED.

Dated: March 14, 2025


KANDIS A. WESTMORE
United States Magistrate Judge

¹ It was unclear from the voicemail whether Mr. Antone was aware that the motion for sanctions had already been granted.